IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4389 OF 2004

Pankaj Shreedutt Tiwari .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri Subhash Jha for Applicant.
Shri S.R. Shinde, APP for the Respondent.
Shri Garud i/by M/s. Khaitan & Jaykar & Co. for the original complainant.

CORAM : A.M.KHANWILKAR, J.
DATED : 02.11.2004

PC :-

. Heard counsel for the parties.

2. I find no reason to show any indulgence in the fact situation of the present case. The material on record clearly supports the prosecution case. The affidavit in reply sworn by Habib R. Ansari, Inspector of Police, filed before this court dated 30th October, 2004, clearly spells out complexity of the case and seriousness of the offence. The offence alleged is one of siphoning off the funds around Rs. 290/- lakhs from the complainant Company of which the applicant was the manager and under whom co-accused

Mrs. Ashwini Rane was working as accountant. She is stated to have formed four different companies to which the amount siphoned from the complainant company has been transferred. At this stage, suffice it to observe, having regard to the complexity of the case and seriousness of the offence and more so on the basis of the statements so far recorded, this is not a fit case for grant of anticipatory bail. The court below has addressed to every minor argument canvassed before it though on the application for anticipatory bail and has disposed of all the arguments by the detailed judgment, running into 32 pages. I am in agreement with the reasons recorded by the court below.

3. Shri Jha, learned counsel for the Applicant placed reliance on the decision of the Apex Court reported in (1994) 4 Supreme Court Cases 260 in the case of Joginder Kumar vs. State of U.P. & Ors.. To my mind, this decision is of no avail to the applicant, having regard to the overwhelming material on record which has already been collected during the investigation. The fact that the applicant has appeared before the investigating officer so far, makes no difference because the crucial evidence is

yet to be collected and for this purpose custodial interrogation of the appilcant is necessary in the light of the complexity and seriousness of the matter. Hence, this application is rejected.

4. At this stage, Shri Jha on instruction of the applicant who is personally present in the court, prays that he may be granted two days time to surrender before the Investigating officer. The learned APP submits that this indulgence be shown only upon the applicant surrendering his pass-port to the investigating officer forthwith as in the past the applicant had removed himself to Dubai without any notice, which affected smooth progress of the investigation. This submission seems to be correct. Hence, the Applicant to forthwith surrender his pass-port to the Investigating Officer in the course of the day by 4 p.m., failing which the investigating officer to take such recourse against the applicant as may be permissible in law.

5. In view of the above, the Applicant is granted time to surrender before the Investigating Officer on or before 4th November, 2004 at 11 a.m., failing which it will be open to the investigating officer to

proceed against the applicant in accordance with law.

6. Needless to observe that the dismissal of the present application is not an expression of opinion on merits on the bail application to be filed by the Applicant after his arrest.

7. Ordered accordingly.

8. Parties to act on an authenticated copy of this order.

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